

Message Text

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PAGE 01 STATE 191659

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FM SECSTATE WASHDC

TO AMEMBASSY SOFIA PRIORITY

C O N F I D E N T I A L STATE 191659

E.O.11652 GDS

TAGS: CGEN

SUBJECT: CONSULAR CONVENTION

REFS: (A) SOFIA 1157; (B) SOFIA 1183

1. DEPARTMENT HAS REVIEWED LATEST GOB COMMENTS ON DRAFT CONVENTION, REPORTED REF A. ALTHOUGH DESCRIBED AS "PRELIMINARY NOTES" IN "PRELIMINARY FORM," DEPARTMENT WILL REGARD THEM AS CURRENT OFFICIAL PRONOUNCEMENT. WHILE DEPARTMENT REALIZES THAT REMAINING "EDITORIAL CHANGES" NOT INCLUDED, THERE APPEARS TO BE SUFFICIENT BASIS FOR PROCEEDING TOWARDS FINALIZATION OF TREATY. SPECIFIC COMMENTS FOLLOW BELOW.

2. ARTICLE 6: DURING APRIL NEGOTIATIONS, US SIDE PROPOSED CHANGE IN TITLE THIS ARTICLE AND DELETION PARAS 2 AND 3. GOB RESPONSE IS ELIMINATE PARA 2 ONLY. CLARIFICATION NEEDED. DEPARTMENT ALSO INTERESTED IN ASCERTAINING WHETHER GOB HAS ACCEPTED OR REJECTED LANGUAGE PROPOSED BY US SIDE AS SUBSTITUTION FOR EXISTING PARA 1, ARTICLE 6.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 191659

3. ARTICLE 15: GOB PROPOSAL WOULD INCLUDE CONSULAR EMPLOYEES AND THEIR FAMILIES WITHIN RECEIVING STATE'S OBLIGATION TO EXTEND RESPECTFUL TREATMENT AND AN APPROPRIATE MEASURE OF PROTECTION. WHILE DEPARTMENT PREFERS LIMITATION THIS RESPONSIBILITY TO CONSULAR OFFICERS AND THEIR FAMILIES, MATTER IS NEGOTIABLE. NOTE: THIS DUTY SEPARATE FROM GUARANTEE OF INVIOABILITY (I.E. IMMUNITIES).

4. ARTICLE 16: GOB LANGUAGE GENERALLY CONFORMS TO US PROPOSAL ON LIMITS ON IMMUNITY FOR CONSULAR OFFICERS, EMPLOYEES AND THEIR FAMILIES. HOWEVER, CERTAIN QUESTIONS ARISE IN CONNECTION WITH SPECIFIC WORDING EMPLOYED. FOR EXAMPLE, DEPARTMENT DOES NOT UNDERSTAND WHY GOB HAS ABANDONED FORMULATION PREVIOUSLY EMPLOYED THIS ARTICLE DISTINGUISHING BETWEEN REAL ESTATE TRANSACTIONS (SUB-PARA (A), PARA 1) AND OTHER CONTRACTS (SUBPARA (C)). DEPARTMENT PREFERS RETURN TO THIS APPROACH WHICH CONFORMS MORE CLOSELY TO US LANGUAGE. ALSO, IS IT CORRECT TO ASSUME THAT GOB HAS ABANDONED ORIGINAL PARA 2 THIS ARTICLE ?

5. ARTICLE 24: THIS LANGUAGE IS CLOSE TO US FORMULATION TABLED DURING NEGOTIATIONS AND SHOULD BE REGARDED AS WORKABLE.

6. ARTICLE 38: DEPARTMENT REGARDS GOB DRAFT AS STEP IN RIGHT DIRECTION, ALBEIT INSUFFICIENT TO DEAL WITH MATTERS INCLUDED IN US DRAFT. DEPARTMENT BELIEVES THAT SATISFACTORY COMPROMISE COULD BE REACHED. WITH RESPECT TO TIME LIMITS, WE SEE NO USEFUL PURPOSE IN INCLUDING REQUIREMENTS IN SEPARATE PROTOCOL AND BELIEVE THAT CONTINUING EFFORT SHOULD BE MADE TO INSERT LANGUAGE TO THIS EFFECT IN ARTICLE 38.

7. RE PARA 3, REF B, DEPARTMENT SUPPORTS FURTHER DISCUSSION THESE ISSUES WITH AIM OF REACHING USEFUL UNDERSTANDING ON ENJOYMENT OF ESTATES PROCEEDS. WE BELIEVE THAT SUCH UNDERSTANDING, DEPENDING UPON SCOPE AND DETAIL INVOLVED, COULD FORM SEPARATE EXCHANGE OF NOTES OR LETTERS. IF EMBASSY HAS SPECIFIC PROPOSAL AT THIS TIME, DEPARTMENT WOULD WELCOME AN OPPORTUNITY TO REVIEW PRIOR TO NEXT CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 191659

APPROACH TO GOB. IN VIEW OF PAST EXPERIENCE IN NEGOTIATIONS, THIS MATTER LIKELY BE REGARDED AS "NEW" ISSUE MERITING FURTHER EXAMINATION BY GOB.

8. ON DUAL NATIONALS, DEPARTMENT STRONGLY BELIEVES THAT FULL EFFORT SHOULD BE MADE TO CONCLUDE AGREEMENT UNDER WHICH GUARANTEES OF ARTICLE 38 APPLY TO SUCH PERSONS. PRESENT POSTURE OF GOB IS SIMILAR TO THAT OF CZECHS PRIOR

TO CONCLUSION CONSULAR CONVENTION WITH CSSR. GOB ARGUMENT THAT IT IS NOT GENERAL PRACTICE OF USG TO INCLUDE DUAL NATIONALS AGREEMENT IN NEGOTIATION OF BILATERAL CONSULAR CONVENTIONS IS WEAKENED BY SUCCESSFUL CONCLUSION OF AGREEMENT WITH CZECHOSLOVAKIA, INCLUDING EXCHANGE OF LETTERS ON THIS SUBJECT. DEPARTMENT BELIEVES THAT ADDITIONAL DETAILED DISCUSSION OF RAMIFICATIONS OF SIMILAR AGREEMENT WITH GOB WILL BE HELPFUL IN BREAKING

ICE ON THIS ISSUE. EXPERIENCE IN BOTH CZECHOSLOVAKIA AND YUGOSLAVIA ON SAME SUBJECT REVEALED APPARENT REPEAT APPARENT LACK OF UNDERSTANDING ON EXTENT TO WHICH SUCH AGREEMENT WOULD AFFECT SUCH MATTERS AS CRIMINAL RESPONSIBILITY, NEW OR RESUMED PROSECUTIONS, AMNESTY, ETC.

9. DEPARTMENT BELIEVES THAT ADVANTAGE SHOULD BE TAKEN OF CURRENT ENTHUSIASM OF GOB TO CONCLUDE CONVENTION QUICKLY AND THAT ADDITIONAL DELAYS SHOULD BE AVOIDED AS MUCH AS POSSIBLE. ASSUMING CORNER CAN BE TURNED ON DUAL NATIONALS, DEPARTMENT VIEWS PROGNOSIS GOOD FOR REACHING AGREEMENT ON OUTSTANDING ISSUES. IF EMBASSY CAN ARRANGE CONVENIENT SCHEDULE FOR FURTHER TALKS, DEPARTMENT WOULD BE PREPARED TO DISPATCH NEGOTIATOR TO ASSIST IN COMPLETING NECESSARY STEPS TOWARD FINALIZATION OF TREATY. RUSH

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